

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number
(Optional) **X-9549**

First Named Inventor: Crees

International (PCT) Application No.: PCT/GB04/02379

U.S. Application No.:
(if known)Filed: 4th June 2004

Title: BIOLOGICAL APPARATUS

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of
_____ U.S. Application _____ (identify type of reply):

☐ has been filed previously on _____

☒ is enclosed herewith.

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05-FC-1452
This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

BEST AVAILABLE COPY

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. See supplemental statement

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

John S. Hale
Signature

John S. Hale

4/3/2006
Date

25,209

Typed or Printed Name

6665-A Old Dominion Drive

Registration Number, if applicable

(703) 448-1770

Address

McLean, VA 22101

Telephone Number

Address

- Enclosures: ☒ Response
- ☒ Fee Payment
- ☐ Terminal Disclaimer
- ☐ Other (please identify):

SUPPLEMENTAL STATEMENT TO 4. Statement page 2

The reason why the U.S. national phase was not entered in due time was due to an unintentional error by the British patent firm handling the PCT application. This error arose because of a docketing error caused by the Technical Assistant handling the case wrongly believing that the December 4, 2005 deadline was for filing a Chapter II Demand rather than the National Phase filing, the United Kingdom having a 31 month filing window.. Upon determining the filing error the application was immediately sent by facsimile to the US. associate with instructions to promptly file the case as quickly as possible. The applicant has always intended to file an application in the U.S. and the delay was unintentional. Once the error was uncovered., the applicant moved forward with due diligence.

IN THE UNITED STATES OF PATENT AND TRADEMARK OFFICE

In re U.S. National Phase Application of :
Crees et al. :
Based on PCT/GB2004/002379 :
Filed: June 4, 2004 :
For: BIOLOGICAL APPARATUS :
:

PCT Office
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

**DECLARATION UNDER PETITION FOR REVIVAL OF AN INTERNATIONAL
APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Sir:

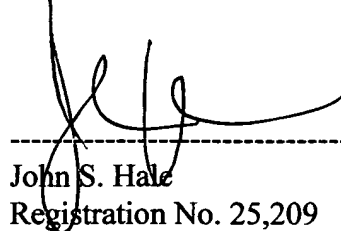
1. The undersigned attorney for applicant is a member in good standing of the bar of the Commonwealth of Virginia.
2. The undersigned is a partner in the law firm handling the above identified application and the firm of record before the United States Patent and Trademark Office.
3. The above application was forwarded to the undersigned by the firm of W.P. Thompson & Co., a British patent firm.
4. The undersigned spoke with the PCT receiving office requesting instructions on how to proceed with the filing of a Petition to Reinstate with the original filing date.

5. The undersigned followed the instructions and filed the application along with the Petition for revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 C.F.R. 1.137(b) of December 4, 2005.
6. The U.S. Patent Office because the cover sheet used was PTO/SB01 directed the case not as a PCT National Phase case but to its regular examining core even though the cover sheet noted that it was U.S. National Phase Patent Application.
7. Upon receipt of the U.S. filing receipt, the undersigned again inquired as to why the application had been given a filing date of December 23, 2005 and was told by Mr. Leonard Smith of the PCT Office to re-file the application using Form PTO-1390.

The undersigned declares that all facts and allegations contained in this declaration are true to the best of his knowledge; all statements made herein of his own knowledge are true and that all statements made on information an belief are believed to be true; and further, that these statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Respectfully submitted,

GIPPLE & HALE



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